Appl. No. 10/042.004
Amdt. dated December 19, 2005
Reply to Office action of June 17, 2005

REMARKS

Double Patenting

Applicant has canceled claims 13 and 62 thereby overcoming the double patent rejection.

35 U.S.C. § 112

The Examiner rejects claims 6, 8, 35, 36, 56, 58 and 66 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner argues that "the best bingo card" language recited in the aforementioned claims is unclear. Accordingly applicant has amended claims 6, 8, 35, 36, 56, 58 and 66 to recite "most likely to win" in place of "the best bingo card." The new language overcomes the section 112 rejection.

The Examiner also rejects claim 54 as not being further limited in scope compared to claim 1. Applicant has canceled claim 54.

35 U.S.C. § 102(b)

Claims 1-3, 5, 9, 15, 16, 20-22, 27, 30, 31, 33, 37, 39, 40, 44-46, 51 and 54-55 are rejected under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over Fioretti in view of Moore.

"Anticipation requires the disclosure in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). As set forth below, Fioretti fails to disclose numerous elements of the rejected claims.

First, Fioretti fails to disclose automatically sequencing through bingo games within a session. Fioretti repeatedly discloses sequencing, but not automatic sequencing. Indeed, Fioretti is silent regarding the actual means for sequencing through games in a session. Instead, Fioretti specifically identifies the incorporated Richardson patents to supplement Fioretti's lack of disclosure. (column 10, lines 24-34). However, the Richardson patents do not disclose a fully automatic system either. The base station of

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Richardson is manually operated by a human operator (i.e., caller)(see, U.S. Patent No. 4,848,771 to Richardson (column 6, lines 58-61). Importantly, Richardson fails to disclose _automatically_ sequencing through bingo games in a bingo session. All Fioretti discloses is "sequencing through each bingo game in a scheduled bingo session." It does not disclose automatically doing so. Thus, the implication in view of Richardson is that a human operator is responsible for causing the system to move from one game to the next and so on.

The claims of Fioretti also fail to disclose an automatic means for sequencing through bingo games in a bingo game session. For example, system claims 1, 22 and 44 recite "means for sequencing through each bingo game in a scheduled bingo session." Method claims 27 and 59 recite "sequencing through each bingo game in a scheduled bingo session." The claims are interpreted under section 112 ¶ 6 such that they are limited to the means for language is constrained to the structural elements disclosed in the specification and equivalents thereof. In Fioretti, there is no mention of automatically moving from one game to the next. Moreover, the incorporated Richardson patents do not disclose automatically moving from game to game. Thus, the claims must be interpreted to only cover sequencing from one bingo game to the next via human interaction. In other words, the disclosures of Fioretti and Richardson are limited to human interaction. In the present case, the claims are limited to a truly automatic system and method.

In the same vein, Fioretti fails to disclose automatically re-enabling said generating of random numbers to initiate at least one event selected from the group consisting of (a) a new bingo game in said session and (b) a new bingo session. Since Fioretti and Richardson utilize human interaction to move from bingo game to bingo game, they do not need or disclose automatically re-enabling the generation of random numbers. That is, without human interaction the systems of Fioretti and Richardson cease to operate after one or more winning bingo cards are identified. The systems begin upon receiving input from a human operator. The instant application discloses a truly automatic system and method.

Similarly, the Examiner states that Fioretti discloses sequential bingo games in a bingo session being initiated the occurrence of one or more predetermined events, the occurrence enabling the means to generate random numbers as recited in present claims

16, 40. Again, while Fioretti discloses sequencing through bingo games in a bingo session it does not disclose doing so automatically.

Similarly, the Examiner states that Fioretti discloses if no bingo games remain in the bingo session, automatically initiating a new bingo session. Again, Fioretti does not disclose such an automatic feature.

The Examiner has expanded the general language (sequencing) of Fioretti to cover automatic sequencing. Fioretti should not be construed so broadly given Fioretti's failure to provide a thorough written description. Simply put, Fioretti fails to disclose an automatic system or method. There is not one example of Fioretti discussing automatic sequencing and how it would occur. Instead, Fioretti incorporates Richardson and its human interactive system and method.

Based on the foregoing, independent claim 1 is allowable. Moreover, since they include each and every element of independent claim 1, dependent claims 3, 5, 9, 15, 16, 20-22, 27, 30, 31, 33, 37, 39, 40, 44-46, 51 and 54-55 are allowable as well.

35 U.S.C. §103(a)

The Examiner rejects claims 14, 17-19, 38, 41-43, 50, 63 and 67 under section 103 as being unpatentable over Fioretti.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)." MPEP 2143.03.

The Examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met because Fioretti fails to expressly or inherently disclose "a monitor for displaying a current status of at least one statement." Specifically, Fig. 2 does not show any monitor so it cannot show a monitor for displaying a current status of at least one statement.

The Examiner provides no support for the opinion that "[I]t would have been obvious

...to display the payout value associated with a game or card". The Examiner apparently, confuses the terms "prize" and "payout". The prize is the amount all players participating in a given bingo game win collectively. It is noted that bingo prizes are often split between multiple winners of the same bingo game. The payout is the amount of money a particular player won up to the current moment from the time the player purchased the original bingo packs enumerated in the receipt 34 (Fig. 2) and/or the receipt 31 (Fig. 3) less the amount of money already paid to the player as illustrated in Figures 6- 8 and more fully described in paragraph [0045] of the specification. Accordingly, the Examiner's alleged motivation "[B]y displaying the payout that a player could win, the player may be more inclined to play the game..." indicates the Examiner's confusion since the payout reflects past winnings, whereas the prizes reflect the future winnings.

The Examiner further provides no support for the opinion that "[I]t would have been obvious...to have the predetermined event for starting a next game be a predetermined time, completion of a previous game or a predetermined number of sales of bingo cards." Moreover, the Examiner contends that the Applicants fail to disclose that these events provide an advantage, are used for a particular purpose or solve a stated problem. The Examiner is factually incorrect. The flowchart of Fig. 16 teaches the specific use of the "trigger mechanisms," "predetermined time," (step 121 in Fig. 14) "completion of a previous game" (step 116 in Fig. 16) and "predetermined number of sales of bingo cards" (step 122 in Fig. 16). Paragraph [0063] of the specification lists specific objectives and uses of the "trigger mechanisms" as follows:

"If however, the just completed game was the last game in the session, then the three consecutive tests "MINIMUM INTER-SESSION BREAK OVER?" 120, "PRESCHEDULED TIME TO START?" 121 AND "MINIMUM SALES REACHED?" 122 are performed to make sure that a minimum break between sessions lapsed, a prescheduled time to start the next session is reached, and most importantly, that a predetermined target level for sales is reached. The last test is needed to assure that at least a certain minimum number of bingo cards are sold for the next session and that the level of participation by players in the next session is achieved". Clearly, this language is a clear statement of use for a particular purpose (i.e., providing a "fully automated bingo session").

The Applicants also state on numerous occasions that an important advantage and

an objective of the invention is to automate the process of conducting bingo games. The specific preferred embodiments of the above trigger mechanisms for the advancement to the next game/session include the predetermined time, completion of a previous game and a predetermined number of sales of bingo cards. Each and every one of these trigger mechanisms serves the purpose and solves a problem of the automation of bingo sessions. Furthermore, the Examiner's expectation that Fioretti's invention would "perform equally well with any event starting the next game" is not realistic, especially in view of the fact that Fioretti teaches away from an automatic conduct of bingo sessions and heavily relies on Richardson's techniques of the manual control of the bingo session by the bingo caller. Finally, the Examiner's assumption is not supported by any prior art reference.

The Examiner further provides no support for the opinion that "[I]t would have been obvious...to require players to input two numbers." Moreover, the Examiner contradicts his own conclusion by referring to the teachings of col. 12 lines 13-27. The cited paragraph specifically teaches that "...only the serial number...would need to be input to the system..." (Emphasis added). Therefore, the quotation teaches away from any need to enter two (or more) parameters into the system.

Therefore, the rejection of these claims should be withdrawn.

The Examiner next rejects claims 1-5, 9, 14-22, 27, 30-33, 37-46, 50, 51, 54-56, 63 and 67 under section 103 as being unpatentable over Fioretti in view of Moore.

Moore teaches a bingo game conducted in a number of cycles or phases or modes. The first cycle is the pre-game cycle during which "each "active" participant is afforded an opportunity to inspect, select and purchase individual game cards..., specify the number of cards to be played, and purchase additional game cards..., specify the number of cards to be played, and purchase additional game credits, utilizing the participant keyboards 22." (column 8, lines 45-53). The aforementioned language teaches away from the automatic conduct of the bingo game because (1) the manual actions required by the player, and (2) the lack of any time limit and/or other criteria imposed on the duration of the pre-game cycle. "This pre-game cycle is normally concluded by a brief lock-out interval during which...no further changes or additional participants are permitted." (column 8, lines 53-56). The word normally is indicative of the manual conduct of the bingo game by the game operator. It is also noted that the automatic conduct of a specific cycle is taught for only

some particular but not all phases of the bingo game. For example, Moore teaches that "...the game terminates preferably automatically, and proceeds to a post game cycle." (Column 9, lines 14-15). Moore also teaches that "[a]t the conclusion of the post-game phase, the game will normally recycle to the next game in sequence." (Column 9, lines 19-21). The utilization of words "automatically" and "normally" with regard to the automatic nature of the bingo game is indicative of the lack of complete automation.

Therefore, the rejection of these claims should be withdrawn.

The Examiner next rejects claims 6-8, 34-36, 56-58, 65 and 66 under section 103 as being unpatentable over Fioretti (or Moore) in view of Kellen.

The Examiner misstates the teachings of Kellen as contained in column 3, lines 45-49. The quoted paragraph does not disclose any monitor displaying any "statement identification code" per se, or the "statement identification code corresponding to the best bingo card." There is also no "statement identification code" shown in Fig. 1. It is noted, also that Fig. 1 does not show any bingo cards at all.

The Examiner also misstates the teachings of Kellen in that Kellen does not disclose "numbers needed to be generated for a best bingo card to achieve bingo". Importantly, Kellen does not teach anything regarding the "geographically distributed" game of Fioretti who teaches away from playing bingo in the "centralized facilities". (Column. 2 lines 20-27). Even though Kellen does teach displaying the "best bingo cards", there is no mention or suggestion that the teachings of Kellen are applicable to the "geographically distributed" games of Fioretti.

Therefore, the rejection of these claims should be withdrawn.

The Examiner next rejects claims 10-13, 26, 59, 60-62 and 64 under section 103 as being unpatentable over Fioretti (or Moore) in view of Barcelou.

The teachings of Fioretti and Barcelou teachings are mutually exclusive. Fioretti teaches certain techniques of conducting bingo games. Whereas bingo games are gambling (chance) games, Barcelou's games are games of skill. Barcelou strongly teaches away from any chance games. (See, column 1 lines 60-67; col. 2 lines 1-18). Therefore, the motivation to combine Fioretti and Barcelou teachings is totally absent. Also, Fioretti clearly teaches the concept of remotely purchasing bingo cards at home. (See, column 6 lines 9-22). Moreover, it is inconceivable to use Barcelou's barcode reader, bill acceptor

and a bill dispenser in a home environment.

Therefore, the rejection of these claims should be withdrawn.

The Examiner next rejects claims 23, 24, 47 and 48 under section 103 as being unpatentable over Fioretti (or Moore) in view of Wei.

Again, Fioretti teaches playing bingo over a "widely distributed geographic areas" and strongly teaches away from playing bingo in the "centralized facilities." Wei on the other hand, teaches the concept of bingo players repeatedly patronizing the same bingo hall ("centralized location"). Therefore, Fioretti and Wei teach away from each other.

Therefore, the rejection of these claims should be withdrawn.

The Examiner finally rejects claims 25, 28, 49, 52 and 53 under section 103 as being unpatentable over Fioretti (or Moore) in view of Tawil.

The Examiner factually misstates the teachings of Tawil by stating that "[T]he data processing means of Tawil scans identification and verification codes..." (Emphasis added). In fact, Tawil does not teach scanning of two codes but only a single code. Moreover, Tawil does not teach the concept of a verification code at all.

Therefore, the rejection of these claims should be withdrawn.

Applicant believes the application is now in condition for issue. Therefore, favorable consideration of claims 1 – 67 is thought to be in order and is urgently solicited.

Respectfully submitted,

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